

**WORKPLACE HARASSMENT AND ANTI-DISCRIMINATION POLICY**

Manual	Governance, Finance and Human Resources/Systems	
Effective date:	June 2009	Policy or Procedure No. <b>HRS9</b>
Review/update date 1:	October 2016	
Review/update date 2:	December 2018	
Review/update date 3:		

**1.0 POLICY:**

YouthLink is committed to creating and sustaining a work environment that celebrates diversity, appreciates the dignity and worth of all staff members, volunteers, students and clients and is free from harassment and discrimination. We are a community organization committed to ensuring that the words and actions of our staff, managers, directors, volunteers, Board of Directors, students on placement and contractors will not discriminate anyone on the basis of age, ancestry, citizenship, creed (religion), colour, disability, ethnic origin, family status, gender identity, gender expression, marital status, place of origin, race, receipt of public assistance, record of offences, sex, pregnancy, sexual orientation or any other personal characteristics. Discrimination and any kind of harassment within the workplace or during work-related activities will not be tolerated. Everyone in the workplace must be dedicated to preventing workplace harassment. Managers, directors, staff, volunteers, Board of Directors, contractors and students on placement with the Agency, as well as anyone involved in delivering or receiving services at YouthLink are expected to uphold this policy, and will be held accountable by the Agency.

The Agency’s Joint Health and Safety Committee will review this policy on an annual basis, or more frequently if required, in accordance with the Occupational Health and Safety Act and YouthLink’s best practices.

**Definitions:**

The Occupational Health and Safety Act defines “**Workplace harassment**” as engaging in a course of vexatious comment or conduct against another employee in a workplace that is known, or ought reasonably to be known, to be unwelcome. It occurs within the course of the employment relationship. The definition of workplace harassment is broad enough to include harassment prohibited under the Ontario Human Rights Code, as well as what is often called “psychological harassment” or “personal harassment”. (See Guidelines 5.0 below for more information.)

“Workplace sexual harassment” is defined as engaged in a course of comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably be known, to be unwelcome. Workplace sexual harassment also includes making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably know that the solicitation or advance is unwelcome.

“**Discrimination**” means any form of unequal treatment based on a ground of the Ontario Human Rights Code, whether imposing extra burdens or denying benefits. It may be intentional or unintentional. It may involve direct actions that are discriminatory on the surface, or it may be subtle or involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging certain groups of people. In any case, even if there are many factors affecting a decision or action, if discrimination is one factor, that is a violation of this Policy.

**2.0****PURPOSE:**

YouthLink is committed to providing equitable service delivery based on the identified needs of the community. YouthLink supports staff in mindful communications that reflect the Agency’s values of leadership, humanity, innovation, respect and excellence. To fulfill this commitment, YouthLink requires an anti-discriminatory environment for delivering service supported and reinforced by a governing body that maintains its own conduct in this area. All YouthLink staff, managers, directors, volunteers, Board of Directors, students on placement, and contractors – **referred to henceforth as representatives of YouthLink** - understand that they have the right to a safe, healthy and supportive work environment that is free from workplace harassment and discrimination and that there is an effective and confidential process to report any incidents of workplace harassment and/or discrimination should they occur. Please note that although the privacy of individuals shall be maintained whenever possible, sharing of information may be necessary to ensure the safety of other staff members and to prevent reoccurrence of the harassment or discrimination.

3.0

**SCOPE:**

This policy applies to all representatives of YouthLink at all locations, through any manner of communications, including electronic, and any place in which business and/or social activities of YouthLink are conducted.

4.0

**RESPONSIBILITIES:**

- YouthLink recognizes the potential for harassment and/or discrimination in the workplace and ensures that measures and procedures are in place when an incident of harassment/and or discrimination occurs.
- YouthLink establishes control measures and training for staff, develops a reporting process for incidents, and investigates all reports of harassment and/or discrimination in keeping with the purpose of the policy.
- Managers ensure YouthLink’s compliance with the policy and procedures, investigate any incidents of workplace harassment and / or discrimination and inform Human Resources
- Any Manager/Director who is aware of, or who reasonably ought to be aware of, harassing and/or discriminatory behaviours occurring in their program/department/work unit or within the Agency as a whole, must take appropriate action, consistent with this policy, to stop it, regardless of whether or not an alleged victim(s) has filed a report.
- Representatives of YouthLink understand and comply with the Workplace Harassment and Anti-Discrimination Policy and seek support when confronted with an incident of workplace harassment.
- Representatives of YouthLink who have been found to have encouraged, condoned or allowed to continue conduct constituting workplace harassment and/or discrimination through words, actions or an omission of action may be subject to corrective measures up to and including dismissal from the Agency.
- The YouthLink Joint Health & Safety Committee supports the development and implementation of harassment prevention measures, procedures and training and reviews them annually. This policy will be reviewed as frequently as necessary and at least on a annual basis.
- The Staff Development Committee supports the development and implementation of discrimination prevention measures, procedures and training.
- The policy will be posted at all locations in a conspicuous place that allows easy access by all representatives of YouthLink. The policy will also be available electronically.

## 5.0

### **GUIDELINES:**

This policy adheres to the Ontario *Human Rights Code* and *Occupational Health & Safety Act* which protect employee and client rights.

Workplace harassment, sexual harassment and discrimination may be overt or subtle, perpetrated in person or through electronic means. It can include:

- making remarks, spreading rumours, gossip, jokes or innuendos, directly or indirectly that demean, ridicule, intimidate, or offend, whether that be directly or in a subtle manner
- Inappropriate or insulting remarks, epithets, gestures, jokes, innuendoes or taunting about age, ancestry, citizenship, creed (religion), colour, disability, ethnic origin, family status, gender identity, gender expression, marital status, place of origin, race, receipt of public assistance, record of offences, sex, sexual orientation or any other personal characteristics
- displaying or circulating offensive pictures or materials in print, electronic or any other format that might be offensive
- bullying, including cyber bullying, such as persistent, offensive, abusive, intimidating, confrontational or insulting behaviour which makes the recipient feel upset, threatened, humiliated or vulnerable
- repeated offensive or intimidating phone calls, e-mails or any other social media contacts
- inappropriate sexual touching, propositions of physical intimacy, advances, suggestions, leering or staring
- comments ridiculing an individual because of characteristics, dress etc. whether related to a ground of discrimination or not
- unwelcome non-violent physical contact
- comments about an individual's physical characteristics or mannerisms
- discrimination which a person feels undermines their self- respect or position of responsibility
- bragging about sexual prowess or questions or discussions about sexual activities
- rough and vulgar humour or language

The comments or conduct could occur on one or more occasions. The fact that a person does not explicitly object to harassing behaviour does not mean that the behaviour is not harassing, and does not mean that it has been assented to.

Workplace harassment can be directed towards any representatives of YouthLink. It may involve conduct that is verbal or non-verbal, a single incident or a series of incidents. Workplace harassment can involve unwelcome words or actions that are known or should be known to be offensive, embarrassing, humiliating or demeaning to a single person or group of employees. It can also include behaviour that demeans, intimidates, threatens, isolates or discriminates against the targeted individual(s) from either staff or management.

#### **What isn't workplace harassment?**

Managers must do their best to communicate their intentions clearly and transparently so as to ensure that staff understand such management actions are designed to improve quality of service to clients and the community.

Workplace harassment does not include reasonable action or conduct by an employer, manager or supervisor that is part of their normal work function, even if there are unpleasant consequences for a staff.

Workplace harassment does not include management decisions and/or actions relating to the employee's employment, such as a decision to change the work or the work assignment to be performed, a workplace inspection and/or changes to the working conditions, changes to employee's work schedules, job assessments, and the implementation of workplace policies. Supervisory meetings, performance coaching, performance reviews, discipline, and job termination are not considered to be forms of workplace harassment under this policy.

Differences of opinion or minor disagreements between co-workers would also not be considered workplace harassment. In addition, any behaviour that would meet the definition of workplace violence would be covered by the Workplace Violence Policy (HRS 10).

## **6.0**

### **PROCEDURES:**

#### **YouthLink will ensure that:**

- procedures are in place to deal with complaints related to harassment and discrimination (see below)
- publications and promotional materials are anti-discriminatory based on the policy statement above
- representatives of YouthLink will reflect the communities they serve

- programs and services are sensitive and respond to the needs of diverse groups, without barriers to full participation
- there is promotion of positive approaches to diversity and a positive recognition of differences as well as active efforts to promote inclusion and equity
- the Agency and its governing body complies with the Ontario *Human Rights Code*, the *Occupational Health and Safety Act*, and other relevant legislation
- representatives of YouthLink are informed about and sensitive to the importance of creating and maintaining an environment free of harassment and discrimination.

### **Reporting of Incidents**

If reasonable to do so, the complainant is encouraged to try to resolve the situation with the person who is alleged to have engaged in the harassment or discrimination. Where the situation cannot be resolved, or the situation continues, the complainant shall report the conduct to a manager. Representatives of YouthLink are encouraged to report all incidents or potential incidents of workplace harassment or discrimination, whether they are directly involved or not. If the alleged victim is uncomfortable approaching their manager or if the manager is the subject of the complaint, they may elect to discuss this with another manager, director, union representative, Director of Human Resources or the Executive Director.

The Agency will not in any way retaliate against an individual who makes a good faith report under this policy, nor will the Agency permit any other representative of YouthLink to do so. Retaliation is a serious violation of the Agency's Anti-Harassment and Discrimination policy and any individual who feels that he or she has been the subject of an act of retaliation should immediately report such conduct. Any representative of YouthLink who retaliates against another individual for reporting any violation of this policy will be subject to disciplinary action up to and including termination.

The following procedure has been developed to ensure rapid response to, and resolution of, harassment and discrimination complaints. To the extent possible, confidentiality will be maintained subject to the requirements for the Agency to investigate and resolve the matter and to any legislative obligations.

### **COMPLAINT PROCESS OPTIONS**

If representatives of YouthLink wish to bring a complaint forward regarding harassment or discrimination, they can do so in two ways. Complaint Process 1 (see below) does not require the complainant to file a complaint in writing, the complainant may request an interviewer with whom they are comfortable and no final report is written. The content of the complaint may, however, result in the initiation of Complaint Process 2, if circumstances come to light making this imperative. This can be determined by any parties involved in the process.

Complaint Process 2 (see below) requires the complainant to present the complaint in writing, they cannot select who will interview the parties and a final report is written. The complainant or person subject to the complaint may choose at any time during Complaint Process 1 to request initiation of Complaint Process 2. However, it is not possible to move from Complaint Process 2 to Complaint Process 1.

Other important points to note:

- a. A complainant or person subject to the complaint who is a member of the union may seek the assistance of a union representative or co-worker during any part of the process.
- b. A complainant or person subject to the complaint who is a member of the union may choose to file a grievance at any time by way of the grievance procedure stated in the Collective Agreement, Article 11 .
- c. A complainant or person subject to the complaint may choose to file a complaint with the Human Rights Tribunal during any part of the process.
- d. If the alleged behaviour involves assault, stalking, hate crimes or other criminal offences, the complainant may take action under the provisions of the *Criminal Code of Canada*.
- e. If a representative of YouthLink provides information to a manager which is, or potentially could be, a breach of the *Human Rights Code*, management will be obliged to investigate, whether or not the representative of YouthLink wishes this to occur.
- f. If YouthLink otherwise becomes aware of a potential violation of this policy, management will be obliged to investigate, regardless of whether or not a formal complaint has been filed.
- g. If the alleged behaviour involves the Executive Director, the complainant may take the matter to the Director of Human Resources who has an obligation to immediately inform the President of the Board of Directors. The Board will then be responsible for investigating the matter and responding to the complainant.

### **Complaint Process 1**

A complainant may first raise the matter with a member of management or the Executive Director and give the manager or director an opportunity to discuss and resolve the matter. Such a discussion shall take place within five (5) working days after the complaint is brought to management's attention. This period shall be reasonably extended if the circumstances, such as the complainant's absence, warrant.

Since the complaint may be of a sensitive nature, the complainant should be given the opportunity to request a suitable facilitator, based on their comfort level and the nature of the incident. If this is not possible, the complainant should then be given the opportunity to express in writing the events that transpired to the person of their choice.

A decision regarding any resolution shall be made and communicated to the complainant and the subject of the complaint, in writing, by the Manager or Director within fifteen (15) working days following the first discussion. All information collected, which is in the form of notes, **NOT** a report, will be retained by the manager in charge of the process, will not be destroyed and will be retained in a secure location. Documentation will not be entered into the personnel file unless discipline is involved.

The content of the complaint may, however, result in the initiation of Complaint 2, if circumstances come to light making this imperative. This can be determined by any parties involved in the process.

### **Complaint Process 2**

The complainant will be required to present the particulars of the complaint in writing. The Agency will be responsible for assigning a manager or suitably qualified external person to fully investigate the complaint. Interviews shall begin within five (5) working days after the written complaint is received. This period shall be reasonably extended if the circumstances, such as the complainant's absence, warrant.

The results of the investigation will be communicated by the manager or director within fifteen (15) working days following the first interview to the complainant and the subject of the complaint, in writing. The results will include information about any corrective action that has been taken or will be taken as a result of the investigation. All information collected, which is in the form of notes **AND** a report, will be retained by the person in charge of the investigation and will not be destroyed. Documentation related to complaints under this policy will be filed in a secure location within the Agency's Human Resources Department. Documentation will not be entered into the personnel file unless discipline is involved. When a complaint is verified, the Executive Director, in consultation with the Director of Human Resources and the Director of Client Services, will determine a suitable response.

If the alleged behaviour involves the Executive Director, the complainant may take the matter to the Director of Human Resources who has an obligation to immediately inform the President of the Board of Directors. The Board will then be responsible for investigating the matter. The Board must initiate an investigation within five (5) working days of receiving the complaint and come to a resolution that is communicated to all relevant parties within fifteen (15) working days of the initiation of the investigation. If the Executive Director is the subject of the investigation, the President of the Board of Directors will determine a suitable response.



### **Confidentiality in Complaint Process**

Information collected in relation to a complaint or incident, including identifying information about any individuals involved, will not be disclosed except to the extent necessary to protect workers, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

All participants in an investigation shall keep the details and results of the investigation confidential except to the extent necessary to protect workers, to assist in the investigation of the complaint or incident, or as otherwise required by law.

### **Potential Outcomes of an Investigation**

If, as a result of the investigation, there is clear and factual evidence of workplace harassment and/or discrimination, appropriate corrective measures will be taken with every effort made to restore a positive working relationship between the involved parties. Although the specific corrective and/or disciplinary action(s) against the harasser will be within YouthLink's discretion, it may include:

- Verbal or written reprimand;
- Referral to appropriate counseling or training;
- Withholding of a promotion;
- Reassignment;
- Temporary suspension;
- Being placed on probation/final warning; or
- Termination of employment.

If, as a result of the investigation, there is clear and factual evidence that the allegation of harassment and/or discrimination was not substantiated due to the fact the allegations were not honestly made, and/or were made with malicious intent, corrective measures will be taken, up to and including dismissal of the complainant (s) from YouthLink.

**7.0 No exceptions:** No exceptions to the policy may occur without the approval of the Executive Director and the Board of Directors.

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Signature of the Executive Director